



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/166951

PRELIMINARY RECITALS

Pursuant to a petition filed June 25, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a telephonic hearing was held on July 16, 2015, at Milwaukee, Wisconsin. Please note that the case name was changed from MQB to MAP post-hearing to reflect the correct program at issue.

The issue for determination is whether the agency correctly seeks to discontinue petitioner's Medicaid Purchase Plan (MAPP) effective July 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre, IM Specialist Adv.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On June 12, 2015 the agency issued a request for verification to petitioner. See Exhibit 2. In part, it requested that petitioner provide proof of her employment with [REDACTED]. The verification was due back to the agency by June 22, 2015.
3. On June 22, 2015 petitioner faxed verifications to the agency. See Exhibit 4.
4. On June 24, 2015 the agency issued a notice to petitioner stating that effective July 1, 2015 her Medicaid Purchase Plan (MAPP) would be discontinued due to her failing to provide the required verification.
5. On July 1, 2015 the agency issued another request for verification to petitioner. See Exhibit 2. It requested that petitioner provide proof of her employment or self-employment. The verification was due back to the agency by July 10, 2015.
6. Petitioner did not provide adequate verification of meeting the work requirement to the agency by the deadlines.

DISCUSSION

The Medicaid Purchase Plan (MAPP) is a subprogram of the Wisconsin Medicaid/MA Program. It allows disabled people who are working or want to work to become or remain MA eligible, even if employed, since there are higher income limits. See Wis. Stat., §49.472 and *Medicaid Eligibility Handbook (MEH)*, §26.1, available online <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

Verification of certain information is part of determining eligibility for MAPP. See *MEH*, §20.1.1. The nonfinancial eligibility requirements for MAPP include:

Clients must meet all of the following:

1. Meet general MA non-financial requirements (4.1 Who is Nonfinancially Eligible for Medicaid),
2. Be at least 18-years-old, (there is no maximum age limit).
3. Be determined disabled, presumptively disabled, or MAPP disabled by the Disability Determination Bureau (DDB) (5.2 Determination of Disability and 5.10 MAPP), regardless of age, and
4. Be working in a paid position or participating in a Health and Employment Counseling (HEC) program (26.3.4 Work Requirement Exemption) .

MEH, §26.3.1.

The *MEH* also defines the work requirements:

To meet the work requirement, a member must engage in a work activity **at least once per month**, or be enrolled in a Health and Employment Counseling (HEC) program (See 26.3.4 Work Requirement Exemption). Consider a member to be working whenever he or she receives something of value as compensation for his or her work activity.

This includes wages or in-kind payments. **The exceptions are loans, gifts, awards, prizes, and reimbursement for expenses.**

MEH, §26.3.3 (emphasis added).

On two occasions the agency requested verification of petitioner to show she was meeting this work requirement. The agency allowed petitioner 10 days to provide it, in accordance with policy. See *MEH* §20.7.2. When petitioner did not provide the requested information again, the petitioner's MAPP closed,

although it was continued uninterrupted because of the “shall not” order given in light of petitioner’s appeal request to have the benefits continue. Much time was spent at hearing explaining why the verification that she provided did not meet the work requirement. The verification provided indicated that petitioner was being reimbursed for her gas expense and did not verify how often, e.g., once per month or more, the work activity occurred that she was asserting she engaged in. In fact, petitioner testified that it was reimbursement for the gas expenses. As stated above, under the policy, “reimbursement for expenses” does not meet the requirement.

The agency is required to deny benefits, as it did here, according to this policy:

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility.

MEH, §20.8.3.

Based on the foregoing, I find that the agency acted correctly here. While petitioner may believe this to be unfair, it is the long-standing position of the Division of Hearings & Appeals that the Division’s hearing examiners lack the authority to render a decision on constitutional or equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Petitioner is reminded to pay attention to his notices and deadlines from the agency, keep documentation of any contact or records with the agency, and to ask for assistance when needed.

CONCLUSIONS OF LAW

The agency correctly seeks to discontinue petitioner’s Medicaid Purchase Plan (MAPP) effective July 1, 2015 due to failure to verify the work requirement.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of August, 2015

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 24, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability